

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2020-275-S**

IN RE: Application of Condor Environmental,	)	
Incorporated Requesting an Expansion of Its	)	
Existing Sewer Service Area to Include	)	<b>RESPONSE TO MOTION</b>
Certain Portions of Anderson County and	)	<b>TO ALLOW SERVICE ON</b>
Saluda County and Approval of Agreement	)	<b>A PROVISIONAL BASIS</b>
(Request for Expedited Review)	)	

The Office of Regulatory Staff (“ORS”) hereby submits this response to the Motion to Allow Service on a Conditional Basis (“Motion”) of Condor Environmental, Incorporated (“Condor” or “Company”). The Motion requested expedited consideration by the Public Service Commission of South Carolina (“Commission”).

**INTRODUCTION**

1. On August 13, 2020, Condor filed an application in Docket No. 2020-192-S to expand the Company’s service area to both the Carriage Hill (Anderson County) and Palmetto Pointe (Saluda County) subdivisions. On September 25, 2020, Condor filed a motion to withdraw its application in Docket No. 2020-192-S.

2. On November 19, 2020, Condor filed an Amended Application (“Application”) in Docket No. 2020-275-S requesting Commission approval for an expansion of its existing service area to include portions of Anderson and Saluda Counties and approval of agreements. In the present Motion filed in this docket, Condor acknowledges that the Company currently provides service to eight (8) customers in Carriage Hills subdivision without Commission approval as required under S.C. Code Ann. §58-5-210.

3. In paragraph 3 of the Application, Condor states that the Company entered into an agreement with the developer of Carriage Hill on June 7, 2018 to provide sewer service to Carriage Hill. Condor therefore entered into an agreement with the developer for Carriage Hills more than

two years prior to filing an Application for Commission approval to expand the existing sewer service area and approve the said agreement.

4. Condor has repeated its past practice of non-compliance by expanding sewer service area without first obtaining Commission approval. In Docket No. 2012-315-S, Condor acknowledged the Company provided sewer service and charged customers for sewer service in multiple subdivisions without first obtaining Commission approval to expand Condor's service area.

5. This matter currently comes before the Commission on a Motion filed by Condor in Docket 2020-275-S on November 23, 2020. In this Motion, Condor requests Commission approval to operate the sewer systems in both the Palmetto Pointe (Saluda County) and Carriage Hill (Anderson County) subdivisions on a provisional basis. Additionally, Condor seeks Commission approval to charge customers for sewer services on a provisional basis, according to the terms of the Application.

6. Condor asserts in the Motion that the Commission's authority to allow Condor to charge customers on a provisional basis rests under S.C. Code Ann. §58-5-240(G). Condor additionally offers in its Motion to forego any lost revenue in the event that the Commission ultimately determines that rates should be higher than those requested in this docket and to provide bill credits in the event that such future rates are lower than those sought here. Finally, Condor seeks this approval from the Commission to provide and charge for sewer service on an expedited basis pursuant to S.C. Code Ann. Regulations Reg. 103-802.

7. By Order 2020-792 dated December 2, 2020 and Hearing Officer Directive 2020-124-H issued on December 4, 2020, the Commission instructed ORS to provide responses or a status report to the Application and Motion of Condor in Docket 2020-275-S by December 14, 2020.

**CONDOR'S REQUEST TO PROVIDE PROVISIONAL SERVICE TO  
PALMETTO POINTE SHOULD BE DENIED**

8. The Commission should deny Condor's Motion to allow it to provide sewer service on a provisional basis to the Palmetto Pointe subdivision based on the pending intervention(s) of

Saluda County Water and Sewer Authority (“Saluda”) and American Land Holdings, LLC (“ALH”).

9. Given that Saluda and ALH have filed petitions to intervene, which have yet to be granted or denied by the Commission, and have raised numerous issues which they believe should be properly before the Commission, a ruling on Condor’s Motion as to Palmetto Pointe would be premature at this time.

**CONDOR’S REQUEST TO SERVE ADDITIONAL CUSTOMERS IN CARRIAGE HILLS AND TO CHARGE CUSTOMERS AN INTERIM RATE SHOULD BE GRANTED ON A LIMITED BASIS**

10. It was not lawful for Condor to begin providing service to Carriage Hills. However, it would harm the eight (8) homeowners already receiving sewer service from Condor in Carriage Hills to not allow Condor to continue to provide service. The customers in Carriage Hills should not be punished for Condor’s perceived failure to comply with Commission orders, rules, and regulations.

11. It is not lawful for a utility regulated by this Commission to receive compensation not approved by this Commission. Ideally, Condor should not be permitted to receive compensation from the eight (8) homeowners for service until the rates proposed in the Application can be properly reviewed by ORS and a final order is issued by the Commission. However, a utility generally cannot be compelled to provide service without compensation. ORS recommends that on an interim basis and only until rates can be examined and determined by the Commission, the provisional rates proposed by the Company may be charged to customers for the sewer service provided by Condor. The provisional rates as specified by the Company’s Motion should be subject to true-up only if the Commission approves permanent rates that are lower than the provisional rates.

12. It is not lawful for Condor to provide sewer service to additional homeowners in the Carriage Hill subdivision. However, until the Application can be properly reviewed by ORS and a final order is issued by the Commission, to the extent that additional customers in Carriage Hills have no other choice for sewer service, Condor should be permitted to provide sewer service and charge the provisional rates subject to a true-up if the permanent rates approved by the Commission are lower than the provisional rates..

13. The homeowners in Carriage Hills should receive sufficient notice of the Application and have an opportunity to be heard.

**THE COMMISSION SHOULD DENY THE REQUESTED RELIEF UNTIL ORS AND  
OTHER INTERESTED PARTIES HAVE HAD THE OPPORTUNITY TO FULLY  
EXAMINE THE ISSUES RAISED IN CONDOR'S APPLICATION**

14. ORS has not completed its review of the Application filed on November 19, 2020 and will require time for discovery.

15. ORS's investigation of Condor's customer billing practices is in-process and not complete. The results of ORS's investigation may impact the rates being proposed by Condor in its Motion and Application.

16. ORS will provide the Commission with the details and the status of its review to the Commission in response to Order No. 2020-792 and asks that the Commission therefore refrain from granting any of the approvals or authorizations requested by Condor in its Application until such time as ORS finalizes its review and provides a full report to the Commission.

WHEREFORE, ORS requests the Commission currently abstain from ruling on the Motion of Condor for the approval of service on a provisional basis in Palmetto Pointe and only allow for the provision of service in Carriage Hills and the charging of rates on a provisional basis; subject to true-up if the Commission later determines the appropriate rate to be lower than that requested in Condor's Motion. ORS continues to conduct discovery in regards to the Application in this docket and will file a responsive pleading or report with the Commission by not later than December 14, 2020.

s/ Jeffrey M. Nelson

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